

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:23-00119

MALACHI DAMONTE COOPER  
DAILEN ISAAH DEFOE

**MEMORANDUM OPINION AND ORDER**

Pending before the court is the motion of the defendant Dailen Isaiah Defoe for a continuance of the trial and all pretrial deadlines in this matter. (ECF No. #53.) Counsel for defendant explains that he needs additional time to review discovery and investigate this matter, and to do so with the defendant. Counsel also believes that further review and research is necessary to enable the defendant to make informed decisions concerning possible defenses, mitigation, and the ultimate resolution of the case. The government does not object to a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time

necessary for effective preparation, taking into account the exercise of due diligence.” Id. § 3161(h)(7)(B)(iv).

Accordingly, the court hereby **ORDERS** as follows:<sup>i</sup>

1. The deadline for the filing of pretrial motions is continued to November 23, 2023;
2. The Pretrial Motions Hearing is continued to December 4, 2023, at 11:00 a.m. in Bluefield;
3. Jury Instructions and Proposed Voir Dire are due by January 2, 2024;
4. Trial of this action is continued to January 9, 2024, at 9:30 a.m. in Bluefield; and
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

**IT IS SO ORDERED** this 6th day of November, 2023.

ENTER:



David A. Faber

Senior United States District Judge

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<sup>i</sup> As no motion for severance has been granted, these new dates (and the court's findings regarding excludable time under the

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Speedy Trial Act) apply to defendant Malachi Damonte Cooper as well.